Supreme Court U.S.
FILED

Docket No. 061597 MAY 29 2007

OFFICE OF THE CLERK

SUPREME COURT OF THE UNITED STATES

WALLACE

v.

WRAY, et al.

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Third Circuit

PETITION FOR WRIT OF CERTIORARI

JOHN WALLACE, Pro Se Petitioner
P.O. Box 8732, Allentown, PA 18105-8732
Phone: 484-951-5803

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(Related to EDPA Civil No. 05-06773
Third Circuit No. 06-3346
Bivens Action)

QUESTIONS PRESENTED FOR REVIEW

1. May US Attorneys and DOJ personnel (FBI) show "deliberate and callous indifference" to Federal crimes, such as trafficking in minor children and child exploitation committed by Government officials, and not do anything to investigate charges/acts as part of their non-discretionary function, or does this conflict with their *raison d'être* in 28 U.S.C. Chapter 31, §§ 509, 510, and 515 and 28 U.S.C. Chapters 33 and 35 (28 CFR Part 600)?

2. If the purpose of US Attorneys is not to investigate violations of Federal law (Item 1), what is their reason for existence? ("Defending" Government in cases like this is not questioned, though their method is.)

3. How can a Federal Criminal Action in Federal Court be brought against the Federal DOJ Defendants under 18 U.S.C. § 242, etc. when they control the process of bringing such an action, and a criminal action can be brought only through them (US Attorneys)?

4. Does this Court address issues of corrupt Government officials and the Judiciary who "legalize" their acts of trafficking in minor children and child exploitation, or are such cases denied Certiorari?

5. May US Attorneys commit attorney fraud on a District Court to "defend" the Government by confusing a case to seek its dismissal when this Court proscribes fraud? (This Bivens action was dismissed as an FTCA case.)

LIST OF PARTIES

Petitioners:
John Wallace
Margaret Wallace,Wife
Heather Wallace, Daughter, Child #1
Cosette Wallace, Daughter, Child #2
Grace Wallace, Daughter, Child #3
Daniel Wallace, Son, Child #4
Faith Wallace, Daughter, Child #5
Joy Wallace, Daughter, Child #6
Joshua Wallace, Son, Child #7
Samuel Wallace, Son, Child #8
David Wallace, Son, Child #9
Jonathan Wallace, Son, Child #10
Victoria Wallace, Daughter, Child #14

Respondents:
Christopher A. Wray, former Asst Atty General
Joshua Hochberg, Chief, Fraud, DOJ
Bruce Ohr, Chief, Organized Crime, DOJ
Patrick L. Meehan, United States Attorney, EDPA
Mrs. Farnan US Attorney's Office, EDPA
Robert S. Mueller, III, Director, FBI, DOJ
John C. Eckenrode, District Director, FBI, EDPA
James P. Doolin, Jr., Supv Sr Resident Agent
Unknown Federal Defendants

Note: These are all the Respondents in original case. The two US Attorneys were added as Respondents in a Supplemental Pleading for fraud on District Court.

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BASIS FOR JURISDICTION

Denial of Rehearing en banc in 06-3346 by the Third Circuit Court was entered on 2 March 2007.

Judgment by the Third Circuit Court in 06-3346 was entered 1 February 2007.

The statutory provision conferring jurisdiction to review the judgment in question on this Court on a writ of certiorari is 28 U.S.C. § 2101(e).

CONSTITUTIONAL PROVISIONS/STATUTES

United States Constitution, Fifth Amendment

> No person shall…be deprived of life, liberty, or property, without due process of law….

STATEMENT OF CASE

This petition seeks review of a decision of the United States Court of Appeals for the Third Circuit which exercised jurisdiction to review under 28 U.S.C. § 1291, holding the appeal was from the final order of a District Court and was an appeal as of Right under Rule 3 of the FRAP.

The District Court had jurisdiction pursuant to Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971), Federal Question Jurisdiction, 28 U.S.C. §§ 1331, and the Fifth and other Amendments of the United States Constitution, specifically Due Process of Law and Equal Protection.

The District Court case 2005 CV-6773 was entered 29 December 2005.

This case arose from Petitioner's own Family being victims of high level Government corruption in trafficking in minor children, child exploitation, and the entire gamut of RICO acts that support organized crime, organized Government crime. This crime was "legalized" by State Court Judges aided by their plethora of "professionals".

Petitioner, a scientist, became physically disabled as the result of a vaccine strain virus from a young Daughter's childhood immunization, subject of another Petition for Certiorari before this Court at this time. Unable to work and with no income, Petitioner and Family were compelled to stay in a rented house, the roof of which the absentee owner would not repair. Rain leaking in caused the plaster board to crumble and become unsightly.

At the same time local Children and Youth Services were harassing Petitioner for home schooling only his own Children (for 16 years). Petitioner had about 40,000 books, computer and programs in all subjects at all levels, and his Children had none of the hassles of public school. Other than the Child who died from the vaccine, there were eleven other Children. They had a nice time home schooling.

Discovering the crumbled plaster the leaking roof had caused, Children and Youth collected the Children who were not found to be harmed in any way. Petitioner was subjected to no fewer than 50 Court appearances over four years, was imprisoned four times on false charges, and his Wife imprisoned twice. These were civil and criminal cases.

In the criminal case, the prosecutor was a relative of a neighbor, "the Grump" who lived across the street and who detested children. He would get down on hands and knees with a scissors to cut his grass, and crawl around looking for cat's turds, quite mad.

Petitioner was found "guilty" because he was unable to work at the time, and his Wife was "acquitted" because she had gone to work six weeks before the CYS appeared on 30 November 2000. Petitioner, being only a scientist, was unversed in law at the time.

Petitioner was kept busy by the State actors appearing in State Court at least 50 time, almost every month, as they tried to crush him with the weight of Government under color of law.

Eventually Petitioner realized that a racket in trafficking in minor children and child exploitation was being conducted illegally by State Government. They misappropriated Federal funds from Federal acts to support their racket. The reason Petitioner realized this was that his own Family and Children were victims of organized Government crime.

Every level of State Court was corrupt so justice could not be found. A few Judges were honest, but they could not prevail. Corrupt Judges used every trick in the book to defeat Petitioner, e.g., the President Judge of the Superior Court of PA signed the UPS manifest for an on-time delivery of Petitioner's appeal, then issued an order that the appeal was late. The State Courts were entirely "leavened" by corruption.

Petitoner brought the State actors and their Judges to Federal Court Pro Se for depriving of Rights in their 'kangaroo courts" (per Justice Douglas). His first efforts were admittedly terrible. In October 2004 Petitioner wrote a criminal complaint, delivering it to the Federal Defendants. They did nothing to investigate as part of their non-discretionary job function. Petitioner never asked for prosecution, only for investigation of the Federal crimes listed by statute in 100 pages.

In "defending" Government, US Attorneys intentionally confused issues, claiming Petitioner sought prosecution, and the Third Circuit used this ploy. In a Supplemental Pleading Petitioner added the US Attorneys as Defendants for their attorney fraud on the District Court and on himself. He had found

Federal Government to be just as corrupt as State Government, just a bit more "refined". However, to the credit of District Court Judge Giles, EDPA, he is a Judge of integrity, one of very few.

This Court is the role model for all Courts in the Nation, and its influence spans the globe. It is believed that inaction in dealing with similar cases of organized Government crime for many years has bred confidence in the Nation's Judiciary that they are "above the law".

Non-Government actors receive lengthy criminal sentences for crimes of trafficking in minor children, child exploitation, extortion and the RICO complex, but organized Government crime is "legalized" by corrupt Judiciary who are "immune" from prosecution and even from investigation.

It is not far-fetched to say that US Attorneys cover up for Government actors, while prosecuting non-Government actors for the same crimes. When US Attorneys must use fraud on the District Court to defeat Petitioner who is not even a lawyer, this says much about the Federal Justice System.

This is the civil counterpart of a criminal action under 18 USC § 242.

This Court should not be proud of organized Government crime "legalized" by Judiciary because this Court through its inaction for many years of its existence appears to acquiesce to organized Government crime. "Deliberate indifference" is an insidious evil. It is easier to deny Certiorari than to face corrupt Judges who follow role models who "split hairs" instead of purging corruption.

ARGUMENT

These are the points being considered:

1. Are the Federal Defendants, DOJ employees, immune for not investigating organized Government crime as part of their non-discretionary job function?

2. Does their failure to investigate Petitioner's claims while they investigate Government claims for the same violations of Federal law deprive Petitioners of Substantive/Procedural Due Process of Law and Equal Protection?

3. Does Judicial accountability really exist, or are Judges permitted to "legalize" organized Government crime or to cover up for criminal acts of other Judges by scrupulously avoiding the issues (as on appeal)?

Official websites of the Attorney General's Office, US Attorney's Office, and FBI encourage the public to report Federal crimes, even anonymously as a "tip".

Petitioner reported them officially in a 100 page document after his Family was the victim, but no investigation occurred because those who trafficked in children, exploited them, extorted money from the victims, and engaged in the totality of RICO issues were Government employees.

The US Attorney's Office with their lies and fraud on the District Court "defended" Government actors who did nothing in their job function, and at the same time permitted organized Government crime to go unaddressed, "legalized" by corrupt Judges, so it could snare more more victims, children/families.

Some time ago this Court said, and by *stare decisis* must uphold its former decision:

> No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All officers of the government, from the highest to the lowest, are creatures of the law, and are bound to obey it. United States v. Lee, 106 U.S. [196,] 220 [(1882)].

Although Judges and others have shielded themselves with immunities so they can "legalize" serious crimes or refuse to investigate them, the law is to be obeyed by all. Totality of case law exempts no one from obeying the law.

28 U.S.C. Chapter 31, §§ 509, 510, and 515 and 28 U.S.C. Chapters 33 and 35 (28 CFR Part 600) stipulate job functions of employees of the Attorney General's Office, US Attorney's Office, and the FBI. They are bound to do these functions.

This Court has said in a moment of integrity:

> For example, the right to due process of law is quite clearly established by the Due Process Clause, and thus there is a sense in which any action that violates that Clause (no matter how unclear it may be that the particular action is a violation) violates a clearly established right. Much the same could be said of any other constitutional or statutory violation. Anderson v. Creighton, 483 U.S. 635 (1987).

The straighforward grammar of this citation can in no way be construed to omit Judges and DOJ personnel who deprive of Rights. Petitioner has explained that the deprivation of Substantive and Procedural Due Process of Law/Equal Protection occurred when Defendant DOJ personnel did not rise to investigate organized Government crime "legalized" by State Court Judges, and subsequently avoided by Third Circuit Judges.

No fine points of law are considered here. Those paid to uphold the law perform their job function, or they can themselves be subject to suit for non-performance of their stated function under law. "Deliberate indifference" to rise to investigate Government crimes against children and families, paid for with misappropriated Federal funds intended to help children and families warrants suit.

Such acts also warrant prosecution under 18 U.S.C. § 242, but because DOJ controls initiation of such criminal actions, they are unlikely to bring an investigation against themselves. Having control of the System, DOJ is able to shield all organized Government crime so suit is never accomplished against any Government actor (unless he runs afoul of their System). With help of Judges, crime grows.

The Founding Fathers were wary of crooked Government, having had their fill of it in Europe. They planned Government should be intentionally weak so people would not have their Rights violated on a consistent basis by Government, as in Europe.

Through the years Government actors have shielded themselves with various immunities, often with help from this Court. At other times this Court through inaction has not risen to challenge crooked Judges who "legalize" heinous crimes for which the man on the street would be prosecuted. Judges do this in under color of law decisions which abound in "kangaroo courts" mentioned by Justice Douglas dissenting in Pierson v. Ray, 386 U.S. 547, 87 S. Ct. 1213, 18 L. Ed. 2d 288 (1967):

Today's decision is not dictated by our prior decisions. In Ex parte Virginia, 100 U.S. 339, the Court held that a judge who excluded Negroes from juries could be held liable under the Act of March 1, 1875 (18 Stat. 335), one of the Civil Rights Acts. The Court assumed that the judge was merely performing a ministerial function. But it went on to state that the judge would be liable under the statute even if his actions were judicial.

We should, of course, not protect a member of the judiciary "who is in fact guilty of using his powers to vent his spleen upon others, or for any other personal motive not connected with the public good." Gregoire v. Biddle, 177 F.2d 579, 581.

This is not to say that a judge who makes an honest mistake should be subjected to civil liability. **It is necessary to exempt judges from liability for the consequences of their honest mistakes**.

But that is far different from saying that a judge shall be immune from the consequences of any of his judicial actions, and that he shall not be liable for the knowing and intentional deprivation of a person's civil rights. What about the judge who knowingly turns a trial into a "kangaroo"

court?... **The plight of the oppressed is indeed serious.**

6 A judge is liable for injury caused by a ministerial act; to have immunity the judge must be performing a judicial function. See, e. g., Ex parte Virginia, 100 U.S. 339; 2 Harper & James, The Law of Torts 1642-1643 (1956). The presence of malice and **the intention to deprive a person of his civil rights is wholly incompatible with the judicial function. When a judge acts intentionally and knowingly to deprive a person of his constitutional rights he exercises no discretion or individual judgment; he acts no longer as a judge, but as a "minister" of his own prejudices**.

This decision applies to all DOJ Defendants, and two US Attorney Defendants in the Supplemental Pleading. The Federal Defendants would not investigate criminal acts of State actors. The US Attorneys "defended" Government to allow the State actors (Judges and other officials) to continue committing crimes against children and

families. For furthering crime against minor children and families, they should be immune?

> The requirement of 'due process' is not a fair-weather or timid assurance. It must be respected in periods of calm and in periods of trouble; it protects aliens as well as citizens. But 'due process', unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place and circumstances. Expressing as it does in its ultimate analysis respect enforced by law for that feeling of just treatment which has been evolved through centuries of Anglo-American constitutional history and civilization, 'due process' cannot be imprisoned within the treacherous limits of any formula. Representing a profound attitude of fairness between man and man, and more particularly between the individual and the government, 'due process' is compounded of history, reason, the past course of decisions, and stout confidence in the strength of the democratic faith which we profess. Due process is not a mechanical instrument. It is not a yardstick.... It is a delicate process of adjustment inescapably involving the exercise of judgement by those whom the Constitution entrusted with the unfolding of the process. Justice Frankfurter in 341 US 123, 162-162.

Due Process involves investigation of crimes.

Due Process works both ways. Government investigates crimes by non-Governmental actors. It must also investigate organized Government crime to ensure Due Process under the Constitution for all under the Constitution. This would

> Represent[] a profound attitude of fairness between man and man, and more particularly between the individual and the government....

Government actors cannot be shielded simply because they are Government, and non-Government actors brought to justice because they are not Judges or Government.

In Deshaney v. Winnebago Cty. Soc. Servs. Dept., 489 U.S. 189 (1989) this Court held:

> Like its counterpart in the Fifth Amendment, the Due Process Clause of the Fourteenth Amendment was intended to prevent

government "from abusing [its] power, or employing it as an instrument of oppression," Davidson v. Cannon, supra, at 348; see also Daniels v. Williams, supra, at 331 ("`"to secure the individual from the arbitrary exercise of the powers of government,"'" and "to prevent governmental power from being `used for purposes of oppression'") (internal citations omitted); Parratt v. Taylor, 451 U.S. 527, 549 (1981) (Powell, J., concurring in result) (to prevent the "affirmative abuse of power"). Its purpose was to protect the people from the State....

We have before us serious issues of organized Government crime against children and families "legalized" by State Court Judges. Federal authorities and US Attorneys authorized to investigate cover up for their State counterparts and thwart investigation so organized Government crime against children and families flourishes. No one does a thing to restrain it. Government actors are "immune". The law supports organized Government crime.

REASONS FOR ISSUANCE OF THE WRIT

1. Pursuant to Rule 10(a) the Third Circuit Court "has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power". They have, by granting immunity, furthered organized Government crime against children and families.

2. Pursuant to Rule 10(c) the Third Circuit Court "has decided an important federal question in a way that conflicts with relevant decisions of this Court". They have brought the efforts of all Judges of integrity to nought, denied Federal law, permitted DOJ Defendants to run counter to the law by not investigating crime.

3. Crime is written in many Federal and State statutes so it can be dealt with, first by investigation. The Third Circuit has given the DOJ the green light to "wink at" organized Government crime against children/families by doing nothing (even though this case is marked "not precedential".

4. Purpose of the Courts is to deal with crime of all perpetrators. DOJ personnel are the first step in the process, and without their investigation crime coutinues and fluorishes.

5. Judges in the underlying cases brought to the DOJ Defendants should not assume that immunities cover their criminal acts of "legalizing" organized Government crime in under color of law adjudications.

6. Proper action by this Court would purge the corrupt Judiciary elements by imprisonment, fear of being corrupt, or they would simply leave the Judiciary.

7. The US Attorneys would understand they could be prosecuted for furthering criminal acts by thwarting investigation and for fraud on the District Court. This would clear US Attorneys' Offices of criminal elements (those who cover up organized Government crime against children and families).

8. Justice would be real in Courts of law under the Constitution instead of being empty words on paper from a historical past.

9. "Kangaroo Courts" (referring to Justice Douglas) would quickly cease to exist.

10. Children and Families would no longer be the endless steam of victims of Children and Youth Services that need them to support organized Government crime in addition to their legitimate functions.

11. The decision of the Third Circuit contains "structural error":

> The Supreme Court has distinguished two kinds of constitutional error at trial: structural error and trial error. A structural error compromises the entire trial; it requires reversal because it involves a deprivation of a constitutional protection so basic that in its absence, "'a criminal trial cannot reliably serve its function as a vehicle for determination of guilt or innocence, and no criminal punishment may be regarded as fundamentally fair.'" Arizona v. Fulminante , 499 U.S. 279, 310 (1991) (citation omitted). Examples of structural error are a biased judge, Tumey v. Ohio , 273 U.S. 510 (1927), ... Structural error cannot be harmless; Robinson v. Del Tufo, Attorney General of NJ, 92-5667 (Third Circuit)

Structural error of the Third Circuit consisted in avoiding dealing with crime because the Defendants were "immune" (above the law).

12. The Third Circuit engaged in shocking conduct by permitting crime to continue:

> "The Due Process Clause of the Fifth Amendment provides that `No person shall . . be deprived of life, liberty, or property, without due process of law. . . .' This Court has held that the Due Process Clause protects individuals against two types of government action. So-called "substantive due process" prevents the government from engaging in conduct that "shocks the conscience," Rochin v. California, 342 U.S. 165, 172 (1952), or interferes with rights "implicit in the concept of ordered liberty," Palko v. Connecticut, 302 U.S. 319, 325 -326 (1937). When government action depriving a person of life, liberty, or property survives substantive due process scrutiny, it must still be implemented in a fair manner. Mathews v. Eldridge, 424 U.S. 319, 335 (1976). This requirement has traditionally been referred to as "procedural" due process." United States v. Salerno, 481 U.S. 739, 746 (1987). Herrera v. Collins, 506 U.S. 390 (1993).

13. The DOJ actors/US Attorneys violated the Rights of Petitioners, victims of the crimes:

> A cause of action and damages remedy can be implied directly under the Constitution when the Due Process Clause of the Fifth Amendment is violated. Cf. Bivens v. Six Unknown Fed. Narcotics Agents, 403 U.S. 388 ; Butz v. Economou, 438 U.S. 478 . Pp. 233-249.... The Fifth Amendment provides that "[n]o person shall be . . . deprived of life, liberty, or property, without due process of law . . . ." In numerous decisions, this Court "has held that the Due Process Clause of the Fifth Amendment forbids the Federal Government to deny equal protection of the laws. E. g., Hampton v. Mow Sun Wong, 426 U.S. 88, 100 (1976); Buckley v. Valeo, 424 U.S. 1, 93 (1976); Weinberger v. Wiesenfeld, 420 U.S. 636, 638 n. 2 (1975); Bolling v. Sharpe, 347 U.S. 497, 500 (1954)." Vance v. Bradley, 440 U.S. 93, 95 n. 1 (1979). Davis v. Passman, 442 U.S. 228 (1979).

14. Public confidence in the Justice System will be restored if this Court deals with DOJ personnel whofor whatever reason allow serious crime to go uninvestigated.

15. DOJ Defendants are not above the law:

> No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All officers of the government, from the highest to the lowest, are creatures of the law, and are bound to obey it. United States v. Lee, 106 U.S. [196,] 220 [(1882)].

16. This Court should set the example for all Courts in the world by dealing with DOJ personnel who refuse to investigate organized Government crime, or further breakdown of the Justice System will occur till all crimes are permitted to Government, and this is the legacy of this Court to the world.

17. Those who let crime against children and families continue have no immunities.

> [W]e have held that qualified immunity would be defeated if an official "knew or reasonably should have known that the action he took within his sphere of official

responsibility would violate the constitutional rights of the [plaintiff], or if he took the action with the malicious intention to cause a deprivation of constitutional rights or other injury . . . ." If the law was clearly established, the immunity defense ordinarily should fail, since a reasonably competent public official should know the law governing his conduct. Harlow v. Fitzgerald, 457 U.S. 800 (1982).

18. As with official conduct under §1983 or Bivens, liability may be imposed under §242 if, but only if, in the light of pre existing law the unlawfulness of the defendant's conduct is apparent. United States v. Lanier, 95-1717 (1997).

This is the civil counterpart of 242.

19. [Footnote 32] Finally, in those cases in which the judicial process fails, **the public is not powerless to punish misconduct**. Like **prosecutors and judges**, official witnesses **may be punished criminally for willful deprivations of constitutional rights under 18 U.S.C. 242**.

[Footnote 34] See Nugent v. Sheppard, 318 F. Supp. 314, 317 (ND Ind. 1970). Cf. Bivens v. Six Unknown Fed. Narcotics Agents, supra, at 392 (agent acting in the name of the United

States possesses "far greater capacity for harm" than individual trespasser acting on his own). Briscoe v. LaHue, 460 U.S. 325 (1983).

20. This Court may be long remembered for condoning/legalizing organized Government crime by denying Certiorari.

Integrity demands issuance of this Writ. The Petitioner has demonstrated beyond doubt that the Writ of Certiorari should issue to uphold law. Crime must be dealt with by those empowered under law.

The Petitioner thanks the Court for Justice under the Fifth Amendment and law. Justice is the Guardian of Liberty.

Respectfully submitted,

John Wallace,
Pro Se Petitioner

Date: 29 May 2007

APPENDIX

Petition for Rehearing, Third Circuit Court,
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Note: The Plaintiff-Appellant never brought suit against (1) The Office of the Attorney General, (2) The U.S. Attorney's Office, (3) the DOJ. The case was only a Bivens action, never a case under the FTCA. This confusion was entered by the Assistant US Attorneys "defending" the Federal actors to derail the case by perpetrating fraud on the District Court. The record in the District Court is replete with the Plaintiff-Appellant's exposure of their numerous instances of attorney fraud on the District Court. The Plaintiff-Appellant found it impossible to correct the record from their fraud, and entered them as Defendants for this fraud. This fraud was carried into the Third Circuit Court.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 06-3346

JOHN WALLACE; MARGARET WALLACE, Wife; HEATHER WALLACE, Daughter, Child #1; COSETTE WALLACE, Daughter, Child #2; GRACE WALLACE, Daughter, Child #3; DANIEL WALLACE, Son, Child #4; FAITH WALLACE, Daughter, Child #5; JOY WALLACE, Daughter, Child #6; JOSHUA WALLACE, Son, Child #7; SAMUEL WALLACE, Son, Child #8; DAVID WALLACE, Son, Child #9; JONATHAN WALLACE, Son, Child #10; VICTORIA WALLACE, Daughter, Child #14

v.

CHRISTOPHER WRAY, Office of the Attorney General; JOSHUA HOCHBERG, Office of the Attorney General; BRUCE OHR, Office of the Attorney General; PATRICK L. MEEHAN, United States Attorney's Office; MRS. FARNAN, United States Attorney's Office; ROBERT S. MUELLER, III, Federal Bureau of Investigation; JOHN C. ECKENRODE, Federal Bureau of Investigation; JAMES P. DOOLIN, JR., Federal Bureau of Investigation; UNKNOWN FEDERAL DEFENDANTS

John Wallace, Appellant

(D.C. Civ. No. 05-CV-6773)

SUR PETITION FOR REHEARING

Present: SCIRICA, Chief Judge,
SLOVITER, McKEE, BARRY, AMBRO,
FUENTES, SMITH, FISHER, CHAGARES and
JORDAN, Circuit Judges

The petition for rehearing filed by appellant in the above-captioned case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT,
/s/ Anthony J. Scirica
Chief Judge

Dated: March 2, 2007
CLC/cc: Mr. John Wallace Virginia R. Powel, Esq.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 06-3346

JOHN WALLACE; MARGARET WALLACE, Wife; HEATHER WALLACE, Daughter, Child #1; COSETTE WALLACE, Daughter, Child #2; GRACE WALLACE, Daughter, Child #3; DANIEL WALLACE, Son, Child #4; FAITH WALLACE, Daughter, Child #5; JOY WALLACE, Daughter, Child #6; JOSHUA WALLACE, Son, Child #7; SAMUEL WALLACE, Son, Child #8; DAVID WALLACE, Son, Child #9; JONATHAN WALLACE, Son, Child #10; VICTORIA WALLACE, Daughter, Child #14

v.

CHRISTOPHER WRAY, Office of the Attorney General; JOSHUA HOCHBERG, Office of the Attorney General; BRUCE OHR, Office of the Attorney General; PATRICK L. MEEHAN, United States Attorney's Office; MRS. FARNAN, United States Attorney's Office; ROBERT S. MUELLER, III, Federal Bureau of Investigation; JOHN C. ECKENRODE, Federal Bureau of Investigation; JAMES P. DOOLIN, JR., Federal Bureau of Investigation; UNKNOWN FEDERAL DEFENDANTS

John Wallace, Appellant

On appeal from the United States District Court
for the Eastern District of Pennsylvania
D.C. Civil Actionv No. 05-CV-6773
(Honorable James T. Giles)

Submitted Pursuant to Third Circuit LAR 34.1(a)
January 18, 2007

Before: SCIRICA, Chief Judge,
SMITH and CHAGARES, Circuit Judges

(Filed: February 5, 2007)

OPINION OF THE COURT

PER CURIAM.

Appellant John Wallacewas convicted in the Lehigh County, Pennsylvania Court of Common Pleas of endangering the welfare of his ch.ildren in violation of 18 Pa. Conc. Stat. Ann. § 4304. On appeal, the Superior Court held, in a 2-1 decision, that the evidence was sufficient to support the conviction, his wife's acquittal on the same charge

did not constitute an impermissibly inconsistent verdict, and the code enforcement officer was qualified to testify as an expert witness. See Commw. v. Wallace, 817 A.2d 485 (Pa. Super. Ct. 2002)[1] The children were removed from the care of their parents by the Lehigh County Office of Children and YouthServices ("CYS"), and adjudicated dependent by the state courts.

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[1] The dissenting judge wrote:

> I believe the conviction of John Wallace is the result of an abuse of prosecdutorial discretion by the district attorney in seekig a criminal solution for circumstances which are properly the subject of civil court remedies. This ill-considered prosecution has led to a conviction where the evidence is insufficient.

Id. At 494 (Cavanaugh, J., dissenting). He concluded that squalid conditions in the home alone, without evidence of physical or sexual abuse or evidence that a parent had failed to intervene to prevent abuse,

death, or an imminent threat of death, could not support a conviction under case law. Id. at 495.

Wallace wrote to United States Attorney Patrick L.Meehan and sent him various materials, seeking a prosecution of the state court trial and appellate judges involved in the termination of his parental rights. He sent copies to the Criminal Division of the Department of Justice ("DOJ"), and he hand-delivered copies to Bernadette Farnan, the criminal duty paralegal on duty in the U.S. Attorney's Office. Wallace was advised by letter by both the U.S. Attorney's Office and the DOJ that the information he submitted did not indicate a violation of federal law. Wallace then sued these federal officials for money damages, see, Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971), in united States

District Court for the Eastern District of Pennsylvania, alleging that they violated his civil rights. The District Court granted the defendants' motion to dismiss, and dismissed the complaint in an order entered on June 16, 2006. Wallace appeals.

We will affirm. The complaint was properly dismissed by the District Court. The decision whether or not to initiate a federal criminal criminal investigation or prosecute a case is completely discretionary with federal law enforcement authorities and is absolutely immunized from a suit for damages. Imbler v. Pachtman, 424 U.S. 409 (1976). All of the prosecutors - defendants Christopher Wray, Bruce Ohr, Patrick Meehan, and Joshua Hochberg - are covered by this immunity. Farnan's conduct in assisting Wallace as a walk-in

visitor, and Agent Doolin's conduct in advising him that the information he submitted did not indicate a federal violation, did not violate any clearly established constitutional rights of Wallace, and these individuals are ntherefore immunized from suit by the doctrine of qualified immunity. Harlow v. Fitzgerald, 457 U.S. 800 (1982). Finally, liability in a civil rights Action cannot be imposed absent personal involvement. See Rizzo v. Goode, 423 U.S. 362, 375-77 (1976). Wallace alleged no facts to show that Robbert Mueller or John Eckenrode were personally involved in the events which gave rise to this action.

We will affirm the order of the District Court dismissing the complaint.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 06-3346

JOHN WALLACE; MARGARET WALLACE, Wife; HEATHER WALLACE, Daughter, Child #1; COSETTE WALLACE, Daughter, Child #2; GRACE WALLACE, Daughter, Child #3; DANIEL WALLACE, Son, Child #4; FAITH WALLACE, Daughter, Child #5; JOY WALLACE, Daughter, Child #6; JOSHUA WALLACE, Son, Child #7; SAMUEL WALLACE, Son, Child #8; DAVID WALLACE, Son, Child #9; JONATHAN WALLACE, Son, Child #10; VICTORIA WALLACE, Daughter, Child #14

v.

CHRISTOPHER WRAY, Office of the Attorney General; JOSHUA HOCHBERG, Office of the Attorney General; BRUCE OHR, Office of the Attorney General; PATRICK L. MEEHAN, United States Attorney's Office; MRS. FARNAN, United States Attorney's Office; ROBERT S. MUELLER, III, Federal Bureau of Investigation; JOHN C. ECKENRODE, Federal Bureau of Investigation; JAMES P. DOOLIN, JR., Federal Bureau of Investigation; UNKNOWN FEDERAL DEFENDANTS

John Wallace, Appellant

On appeal from the United States District Court
for the Eastern District of Pennsylvania
D.C. Civil Actionv No. 05-CV-6773
(Honorable James T. Giles)

Submitted Pursuant to Third Circuit LAR 34.1(a)
January 18, 2007

Before: SCIRICA, Chief Judge,
SMITH and CHAGARES, Circuit Judges

JUDGMENT

This cause came to be considered on the record from the United States District Court for the Eastern District of Pennsylvania and was submitted pursuant to Third Circuit LAR 34.1(a) on January 18, 2007. On consideration whereof, it is now hereby

ORDERED and ADJUDGED by this Court that the judgment of the District Court entered June 16, 2006, be, and the same is hereby affirmed. Costs

taxed against appellant. All of the above in accordance with the opinion of this Court.

ATTEST

/s/ Marcia M. Waldron
Clerk

DATED: February 5, 2007

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
PENNSYLVANIA

JOHN WALLACE, ET AL.
Plaintiffs

v.

CHRISTOPHER A. WRAY, OFFICE OF THE
ATTORNEY GENERAL, ET AL.,
Defendants

CIVIL ACTION NO. 05-6773

ORDER

_____AND NOW, this 15th day of June, 2006

upon consideration of federal defendants Motion To

Dismiss, it is hereby

ORDERED

that said Motion is granted. The Complaint is hereby

dismissed with prejudice as to the Federal

Defendants, Christopher Wray, Joshua Hochberg,

Bruce Ohr, of the Office of the Attorney General of the United States of America, Patrick L. Meehan, United States Attorney in and for the Eastern District of Pennsylvania, Mrs. Farnan of the U.S. Attorney's Office, FBI Director Robert S. Mueller, III, Special Agent in Charge John C. Eckenrode, FBI Supervisor Special Agent James P. Doolin, Jr., the Office of the Attorney General, Department of Justice, the United States Attorney's Office and the FederalBureau of Investigation. The Court lacks subject matter jurisdiction as to federal tort claims against the United States and the claims are otherwise barred by immunity doctrines.

HONORABLE JAMES. T. GILES
Judge, United States District Court

Entered June 16, 2005